

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
SOUTHERN DIVISION

MICHAEL NUNEZ, * CIV 22-4118

Petitioner, *

vs. *

ORDER

WARDEN K. BENNETT, *

Respondent. *

*

Petitioner has timely objected to the Report and Recommendation. Petitioner again objects to the computation of his earned time credits as well as the application of whatever earned time credits Petitioner has.

Respondent's position is that Petitioner's claims are moot as was shown by the affidavit of Petitioner's Unit Manager at the Yankton Federal Prison Camp. The Affidavit shows the individualized, fact specific review and recommendation. The recommendation on September 23, 2022, of the Unit Manager was that Petitioner be placed at a Residential Reentry Center for approximately 180 days. On September 26, 2022 Petitioner's Unit Team submitted a referral recommending placement at a Residential Reentry Center for 436 days with a placement date of January 12, 2023. "This recommendation was based on Nunez's Second Chance Act review (180 days) plus Nunez's earned FTCs that were available for placement in prerelease custody (256 days)." Page 5 of Unit Manager Affidavit, Doc. 15.

Petitioner claims his release date is calculated as March of 2024 and claims it should be August of 2023. The Petitioner's Objections and claims are denied as both the calculations as well as the crediting of time credits in Petitioner's case by the Bureau of Prisons are not subject to judicial review. *Roberts v. Cox*, 2022 WL 742489 (D.S.D. 2022).

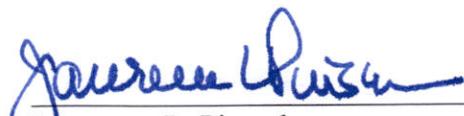
Accordingly,

IT IS ORDERED:

1. That the Report and Recommendation, Doc. 19, is adopted, along with the above additional comments.
2. That Petitioner's objections to the Report and Recommendations, Doc. 22, are denied.
3. That Petitioner's claims, Doc. 1, are dismissed with prejudice.

Dated this 22nd day of May, 2023.

BY THE COURT:



Lawrence L. Piersol
United States District Judge

ATTEST:

MATTHEW W. THELEN, Clerk

